



HIGH COURT OF JUDICATURE AT ALLAHABAD
CIVIL MISC REVIEW APPLICATION No. - 117 of 2026

Rakesh And 2 Others

.....Applicant(s)

Versus

Deputy Director Of Consolidation And 10 Others

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Ashok Kumar Dwivedi
Counsel for Opposite Party(s)	:	C.S.C.

Court No. - 37

HON'BLE CHANDRA KUMAR RAI, J.

1. Heard Mr. Ashok Kumar Dwivedi, learned counsel for the petitioners/applicants and learned Standing Counsel for the State-respondents.
2. The instant review application has been filed against the final judgment passed by this Court on 27.05.2026 in Writ B No.13482 of 1981 on the following grounds as set up in the review application:-

"1. Because, petitioner claiming his right on the basis of registered sale deed and respondents claiming their rights on the disputed property on the basis of adverse possession of the disputed land, thereafter, the petitioner moved an application under section 9(A) of U.P.C.H. Act before the consolidation officer, The consolidation officer considering the facts and evidence produced by concerned party, some Gata of the disputed land is given to the petitioner and some Gata of the disputed land was given to the contesting respondent on the basis of possession by order dated 27.01.1971.

2. Because, being aggrieved by part of the order dated 27.01.1971, the petitioner had preferred an appeal before SOC Azamgarh, that the unavoidable circumstances not control in hand of the petitioner, the

appeal was dismissed for want of prosecution, that during pendency of the appeal, the respondents falsely implicated of Bikrma/Vikram Singh in Criminal Case and Bikrma/Vikram Singh send in jail in said criminal case lodged by the respondent party namely Raghunath Singh. Therefore, unavoidable circumstances not control in petitioner and the appeal of the petitioner is dismissed ex-parte manner.

3. Because, the specific averment in this regard taken and pleaded before the revisional authority in memo of revision but without considering the specific pleading in this regard the revision filed by the ancestral of the petitioner is rejected only one line of order. "बार-बार पुकार कराने पर भी प्रार्थी उपस्थित नहीं है। विपक्षी उपस्थित है। 03.30 बज गया है प्रार्थना पत्र निरस्त"। It is crystal clear claim/title of the petitioner has not adjudicated on merit.

4. Because, ancestral of the petitioner was purchased the Bhumidhari Land of Girdhari Pandey vide registered sale deed dated 19.12.1974.

5. Because, on the basis of registered sale deed some Gata mutated in Revenue Record in the name of ancestral of the petitioner and some Gata is not mutated in the Revenue Record in the ancestral of the petitioner filed an objection under section 9(A) of U.P.Z.A. L.R. Act vide case no. 733 before this Consolidation Officer, V, Azamgarh, the aforesaid case was decided on 27.01.1971 in favour of ancestral of the petitioner and allowed the objection of the ancestral of the petitioner and directed to mutate the name of ancestral of the petitioner in Gata No. 526, 531, 542, 547, 560 on the basis of registered sale deed dated 01.12.1974.

6. Because, being aggrieved of some portion of the judgement and order dated 27.01.1971 ancestral of the petitioner namely Bikrma/Vikram Singh preferred an

appeal before the Settlement Officer Consolidation, Azamgarh vide appeal no. 1910/48, Under Section 19(1) of C.S. Act inre Bikrma/Vikram Singh Vs Raghuraj in aforesaid appeal was dismissed on 11.11.1976 in ex-parte manner, thereafter the restoration application was moved on 08.02.1977 for recalling the order dated 11.11.1976.

7. Because, the Settlement Officer Consolidation, Azamgarh rejected the restoration application of the ancestral of the petitioner dated 08.02.1977 vide order dated 10.11.1977.

8. Because, being aggrieved by the order dated 10.11.1977 the ancestral of the petitioner has preferred a revision under section 48 of C.H. Act on 23.11.1977.

9. Because, on 30.01.1980, the revision of the ancestral of the petitioner has been dismissed on the ground of the petitioner of the revisionist is ex-parte.

10. Because, being aggrieved from the order dated 30.01.1980, the ancestral of the petitioner has preferred a restoration application along with affidavit on 01.12.1980.

11. Because, the Deputy Director of Consolidation, Azamgarh without considering averments made in the restoration application and without calling the reply of the other side dismissed the restoration application dated 01.02.1980 in arbitrary manner without considering the averments made in restoration application.

12. Because, the genuine title claim has not been decided by the appellate authority as well as revisional authority, both the courts concerned dismissed the restoration application of the petitioner in arbitrary manner without framing the issues is necessary part of the title matter.

13. Because, both the court concerned directed to consider the averments made in application and explaining the sufficient cause in restoration application but both the court concerned without considering the submission and averments made in restoration application rejection the restoration application of the petitioner in hurry manner.

14. Because, the aforesaid case the Hon'ble Court remand the case then further directed re-examination and also cross examination of the complainant and also give the full opportunity of hearing to the both parties, during the reexamination the competent authority has not recorded the statement of the Petitioners and also not given the full opportunity of hearing, the all matter and facts available on record.

15. Because, the titled dispute has been decided on the basis of evidence and pleading exchanged by the parties concerned that in the present case the claim of the parties has not been decided on merit and the title case of the petitioner has been decided in ex-parte manner rejecting his restoration application on the ground of delay filing in the restoration application.

16. Because, the petitioner filed a stay application in said writ petition on 07.03.2014 but no order passed in stay application.

17. Because, the title dispute cannot be decided in hurry manner, the petitioner is claiming his rights on the basis of registered sale deed executed by Girdhari Pandey on 19.12.1971 in the favour of the ancestral of the petition. The aforesaid sale deed never has been challenged in any competent court of law. The said land is settled in favour of the petition on the basis of registered sale deed.

18. Because, the rights of the petitioner have not been

decided on merit but rejected the restoration application on the ground of negligence done by the petitioner in-beginning.

19. Because, the order dated 27.05.2026 passed by this Hon'ble Court on the basis of negligence on the part of petitioner in-beginning in said proceeding is incorrect and against the record submitted by the petitioner alongwith this review petition. It is submitted before this Hon'ble Court; the petitioner has not been made a delay for filing the appeal and revision and revision before the court concerned.

20. Because, the petitioner preferred a statutory revision before D.D.C. Azamgarh within stipulated period prescribed under U.P. Consolidation and Holding Act, it is submitted before this Hon'ble Court, the restoration applicant filed by the petitioner before D.D.C., on next date of rejecting of the revision of the petitioner.

21. Because, the petitioner filed a restoration application in revision mentioning therein that the petitioner was ill due to this reason he was not attended the court but the court concerned not considered this plea of the petitioner, rejected the restoration application without applying his judicial mind.

22. Because, no deliberated intention of the petitioner to linger the case before the court concerned as well as this Hon'ble Court. In this regard mentioned in the order dated 27.05.2026 is absolutely incorrect and against the face of record

23. Because, on 29.01.1995, petitioner was also filed an expedite application before this Hon'ble Court with prayer to expedite the case of the petitioner and remanded the matter back before D.D.C. for deciding the case on its own merit but due to paucity of time the

case of the petitioner has not been decided on that time but passing the impugned judgement and order dated 27.05.2026, this Hon'ble Court on sole basis rejecting the petition of the petitioner on the ground of negligence in part of the petitioner. The petitioner was trying to best effort for deciding the case on merit but unavoidable circumstances the case of petitioner has not been decided.

24. Because, during the pendency of the appeal before S.O.C. Azamgarh, the ancestral of the petitioner Bikrma/Vikram Singh was send in jail in S.T. No. 33 of 1972, Under Section 302/34 I.P.C. Police Station Ahraula, District Azamgarh and convicted by learned Session Court for life imprisonment vide order dated 26.07.1972 due to this reason the ancestral of the petitioner was not appeared in appeal pending before S.O.C., Azamgarh, therefore, the appeal was rejected on the ground of not appearance."

3. Learned counsel for the petitioners/applicants pressed all the 24 grounds taken in the review application one-by-one and submitted that title proceeding under the U.P. Consolidation of Holdings Act should be decided on merit rather on technical ground. He further submitted that reason was assigned for restoring the title proceeding on its original number to adjudicate the controversy on the merit but appellate court as well as revisional court has rejected the claim of the petitioners on technical consideration. He submitted that final judgment dated 27.5.2026 passed by this Court should be reviewed.

4. I have considered the arguments advanced by learned counsel for the petitioner and perused the record.

5. There is no dispute about the fact that Writ B No.13482 of 1981 filed on behalf of the petitioner has been dismissed on merit.

6. In order to appreciate the controversy involved in the matter, perusal of para No.9 to 14 of the judgment/ order dated 27.5.2020 will be relevant which are as under:

"9. The order passed in appeal, which has been filed along with written arguments submitted on behalf of learned counsel for the petitioner demonstrate that in appeal, also the petitioner was negligent in prosecuting the title appeal which has resulted into dismissal of the appeal in default as well as dismissal of the restoration application filed in appeal.

10. Considering the fact that petitioner was negligent in prosecuting the proceeding since from very beginning, as such the petitioner is not entitled for any discretion in his favour. The title dispute which has been adjudicated by the Consolidation Officer in the year 1971 cannot be re-opened on the ground that petitioner's title appeal/ title revision was not decided on merit. The record demonstrate that petitioner was negligent in prosecuting the appeal and revision, as such no interference is required against the impugned order passed by consolidation authority.

11. Under the U.P.C.H. Act, proper procedure has been prescribed for filing title objection/title appeal/ title revision within certain period of limitation. The Section 5 of Indian Limitation Act is applicable with respect to the proceeding under the U.P.C.H. Act as provided under Section 53-B of U.P.C.H. Act, but it does not mean that negligent litigant will be permitted to file appeal/revision/restoration application according to his own wish.

12. Considering the entire facts and circumstances of the case, no interference is required against the impugned order dated 30.1.1980 and 3.9.1981 passed by respondent no.1-Deputy Director of Consolidation .

13. The writ petition is dismissed.

14. No order as to costs. "

7. So far as scope of review application is concerned, Hon'ble Apex

Court in the case reported in (2023) 160 RD 107 S. Madhusudhan Reddy Vs. V. Narayana Reddy and Others has held that review is not rehearing. Paragraph no.35 of the judgment rendered in **S. Madhusudhan Reddy (supra)** will be relevant for perusal, which is as under:

35. In our opinion, even otherwise, recourse to successive review petitions against the same order is impermissible more so, when the Respondents have miserably failed to draw the attention of this Court to any circumstances that would entitle them to invoke review jurisdiction within the ambit of the Rules. Under the rules, the Respondents were not required to produce "genuine" documents but new documents/evidence that was not within their knowledge and could not have been so even after exercise of due diligence, which could have turned the tables in their favour. Nor has any error apparent on the face of the record been brought out by them.

8. Considering the entire facts and circumstances of the case as well as the ground taken in the review application/ pressed before the Court and ratio of law laid down by Apex Court in **S. Madhusudhan Reddy (supra)**, no case for review of final judgment passed on merit is made out.

9. The review application filed on behalf of applicants is hereby rejected.

September 23, 2026
PS*

(Chandra Kumar Rai,J.)